In the Supreme Court of the United States

OCTOBER TERM, 1970

No. 120

WILLIAM WARD EHLERT, PETITIONER

v.

UNITED STATES OF AMERICA

SUPPLEMENTAL MEMORANDUM FOR THE UNITED STATES

1. At the request of the Court during oral argument of this case on January 13, 1971, there are attached hereto, as Appendix A, figures compiled by the Selective Service System which relate to the number of post-induction notice conscientious objector claims filed in ten jurisdictions in the United States over a four-month period from August through November, 1970.

2. The Court also requested that the government furnish some evidence to verify the assertion made by government counsel during oral argument that the Department of the Army is now, and in the past has been, interpreting Department of Defense Directive No. 1300.6 in the manner indicated in our merits brief

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in this case (Gov't Br., pp. 24–26).[1] A letter has been obtained from the General Counsel of the Department of the Army verifying this fact, and a copy is attached hereto as Appendix B.

3. Finally, this Court requested the government to provide some explanation of the procedures followed by the Armed Forces in processing conscientious objector claims raised after induction. Those procedures are spelled out fully in paragraph VI of Department of Defense Directive No. 1300.6, attached hereto as Appendix C.[2]

This directive provides expressly that throughout the period during which a conscientious objector claim is being processed by the military, the applicant making the claim will be employed "only in duties which involve the minimum practicable conflict with the asserted beliefs" (App. C, p. 13, *infra*).

When an application for conscientious objector

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[1] Two recent district court decisions (*Baker* v. *Laird*, 316 F. Supp. 1 (N.D. Calif.) and *Morrison* v. *Larsen*, N.D. Calif., Civ. No. 70–858–ACW, decided September 16, 1970, pending on appeal, C.A. 9, No. 26869) erroneously suggest that the Army is not following this interpretation. However, an examination of the claims in those cases reveals that they were not based on beliefs which matured after induction, or even after notice of induction; rather the conscientious objector beliefs matured prior to notice of induction but were not asserted until after mailing of the notice. Thus, the Army's denial of those claims under AR 635–20, para. 3(b)(1) (App. D, p. 26, *infra*) was not contrary to, but entirely consistent with, its interpretation of the directive since 1965, as expressed in Appendix B hereto.

[2] The implementing regulation for the Department of the Army (AR 635–20)—referred to in the letter from General Counsel for the Department of the Army (App. B, p. 6, *infra*)—is attached hereto as Appendix D.

status is filed, the directive provides that the applicant is to be interviewed separately by a chaplain and a psychiatrist (or medical officer) and each is to prepare a written report on the interview. The applicant is also afforded an opportunity to appear before an officer "who is knowledgeable in policies and procedures relating to conscientious objector methods" (App. C, p. 14, *infra*) to be heard in support of his application. A written report is also prepared covering this appearance. All reports are then forwarded, together with the application and any supporting documents, "to Departmental headquarters for individual determination of action on the basis of the facts and special circumstances of the case" (App. C, pp. 14–15, *infra*). The final decision is made by the Military Conscientious Objector Review Board, comprised of four members: a senior officer who is the Review Board president, an officer in the Judge Advocate General Corps, a chaplain, and a Medical Corps officer (App. B, p. 7, *infra*).

Respectfully submitted.

ERWIN N. GRISWOLD,
Solicitor General.

JANUARY 1971.

APPENDIX A

Ten jurisdictions with highest percentages of post-induction notice conscientious-objector claims (excluding Puerto Rico) for August–November, 1970

	Post-Notice Claims	Draft Calls	Percent
District of Columbia	17	113	15.0
New York	391	3,086	12.6
California	496	4,191	[1] 11.7
Oregon	43	373	11.5
Massachusetts	88	775	11.3
Washington	60	539	11.1
Connecticut	55	525	10.5
Rhode Island	11	122	9.0
Colorado	42	471	8.9
Michigan	107	1,964	8.5
Total	1,364	12,189	11.22

[1] During oral argument, petitioner's counsel cited the relatively high California rate of post-notice claims as evidence that even the adoption of the *Ehlert* rule by this Court would not deter the filing of such claims, since California registrants during this period of time were governed by the Ninth Circuit ruling in *Ehlert*. However, certiorari was granted by this Court in *Ehlert* on May 4, 1970, 397 U.S. 1074, and thus it can scarcely be supposed that draft counsellors, whether in the Ninth Circuit or elsewhere, thought of the question as a closed one during the months that the case has been pending for decision in this Court.

National summary

	1970			
	August	September	October	November
Conscientious-Objector Claims Made Subsequent to Induction Notice	987	655	549	534
Monthly Draft Calls	10,000	12,000	12,000	8,000
Percent	9.87	5.46	4.58	6.85

Totals for August–November, 1970

Post-Notice Claims	2,606
Draft Calls	42,000
Percent	6.42

APPENDIX B

DEPARTMENT OF THE ARMY,
OFFICE OF THE GENERAL COUNSEL,
Washington, D.C., January 15, 1971.

Mr. WILLIAM H. REHNQUIST,
Assistant Attorney General,
Office of Legal Counsel,
Department of Justice,
Washington, D.C. 20530

DEAR MR. REHNQUIST: You asked me to explain the nature and duties of the Department of the Army 1–O Conscientious Objector Review Board.

As you know, Army Regulation 635–20 provides that the entire file of the conscientious objector applicant, including the application form with all enclosures, reports of interview, the recommendation of the hearing officer, and the Department of Defense Summary Sheet for Review of Conscientious Objector Application, will be forwarded to the Adjutant General by the officer exercising general court-martial jurisdiction over the applicant. Although not mentioned in the regulation, upon receipt of the file, the Adjutant General reviews the file to ensure that all the necessary papers are enclosed and then forwards it to the Department of the Army 1–O Conscientious Objector Review Board.

The 1–O Conscientious Objector Review Board has been delegated the authority by the Deputy Chief of Staff for Personnel on behalf of the Secretary of the Army to render a final decision on the applicant's request for discharge on conscientious objector grounds.

The Board itself is comprised of four members; only three need be present to constitute a quorum for voting purposes. The president of the board is a senior officer who has the ministerial responsibility of scheduling and calling for votes on a particular case. The additional members include an officer in the Judge Advocate General Corps, a chaplain, and a Medical Corps officer.

Each member sitting on the particular case will be provided a copy of the file for his review and study. After appropriate study of the file, the members of the Board will, at a meeting of all members sitting on the case, vote to grant or deny discharge to the applicant in light of the facts of the particular case and according to the types of conscientious objector claims which are recognized under AR 635–20. Where the applicant receives a majority vote in his favor, or where there is a tie vote, his request for discharge as a conscientious objector will be approved. A written decision is prepared by the Board which is then sent back to the Adjutant General, who then informs the applicant of the decision through the appropriate chain of command.

You also asked whether the Army allows a soldier to file for discharge in instances where his conscientious objector views are fixed after notice of induction but prior to entry into the military service. Present practice grants the soldier the opportunity to file in such cases. Department of the Army military and civilian personnel who worked in this field in 1965 indicate that the Army also followed this practice in 1965.

I hope that this information serves your needs.

Sincerely,

ROBERT E. JORDAN, III,
General Counsel.

APPENDIX C

Department of Defense Directive

Subject: Conscientious Objectors.

Ref.: (a) DoD Directive 1300.6, subject as above, August 21, 1962 (hereby cancelled).
(b) DoD Directive 1332.14, "Administrative Discharges," December 20, 1965.
(c) Section 6(j) of Title I of Public Law 90-40, June 30, 1967, "Military Selective Service Act of 1967" (herein referred to as "MSSAct").
(d) Section 3103, Title 38, United States Code.

I. REISSUANCE AND PURPOSE

This Directive reissues reference (a) to update uniform Department of Defense procedures governing conscientious objectors and processing requests for discharge based on conscientious objection. Reference (a) is hereby superseded and cancelled.

II. APPLICABILITY AND SCOPE

The provisions of this Directive apply to the Military Departments and govern personnel of the Army, Navy, Air Force, and Marine Corps and all Reserve components thereof.

III. DEFINITIONS

A. *Non-combatant service or non-combatant duties (used interchangeably herein).*—

1. service in any unit of the Armed Forces which is unarmed at all times;

2. service in the medical department of any of the Armed Forces, wherever performed; or

3. any other assignment the primary function of which does not require the use of arms in combat provided that such other assignment is acceptable to the individual concerned and does not require him to bear arms or to be trained in their use.

B. *Non-combatant training.*—Any training which is not concerned with the study, use, or handling of arms or weapons.

IV. POLICY

A. *National Policy.*—The fact of conscientious objection does not exempt men from the draft. However, the Congress, as indicated by provisions of P.L. 90-40 (reference (c)) and related statutes, has deemed it more essential to respect a man's religious beliefs than to force him to serve in the Armed Forces and accordingly has provided that a person having bona fide religious objection to participation in war in any form (1-0 classification) shall not be inducted into the Armed Forces but will be required to serve his country for the same period of time in civilian work contributing to the maintenance of national health, safety, or interest under a civilian work program administered by Selective Service.

B. *DoD Policy.*—Consistent with this national policy, bona fide conscientious objection as set forth in this Directive by persons who are members of the

Armed Forces will be recognized to the extent practicable and equitable. Objection to a particular war will not be recognized. This policy will be executed subject to the following:

1. No vested right exists for any person to be discharged from military Service at his own request even for conscientious objection before the expiration of his term of service, whether he is serving voluntarily or involuntarily. Administrative discharge prior to the completion of an obligated term of service is discretionary with the military Service concerned, based on judgment of the facts and circumstances in the case.

2. A request for discharge after entering military Service based solely on conscientious objection which existed but was not claimed prior to induction or enlistment cannot be entertained. Similarly, requests for discharge based solely on conscientious objection claimed and denied by the Selective Service System prior to induction cannot be entertained. This accords with Federal court holdings that a claim to exemption from military Service under the Selective Service laws must be interposed prior to notice of induction and failure to make timely claim for exemption constitutes waiver of the right to claim. However, claims based on conscientious objection growing out of experiences prior to entering military service, but which did not become fixed until entry into the service, will be considered.

3. A request for discharge or assignment to noncombatant duties on the grounds of conscientious objection will be handled on an individual basis, with final determination made at the Departmental headquarters of the person's service in accordance with the facts and circumstances in the particular case and the criteria outlined in section V., below. The type of

discharge, if separation is deemed warranted, will be determined by the person's military record; the standards set forth in DoD Directive 1332.14 (reference (b)); and the procedural guidelines outlined in VI., below.

a. In evaluating requests for discharge based on conscientious objection, great care must be exercised to assure the sincerity of the claim; in addition, care shall be taken to assure that clear and concise discharge procedures are issued in compliance with section VII., below, to preclude inviting or permitting abuse by unscrupulous persons who may seek to avoid all obligations on the grounds of moral, ethical, or religious beliefs.

b. Since it is in the national interest to judge all claims of conscientious objection by the same standards, whether made before or after entering military service, Selective Service System standards used in determining 1-O or 1-A-O[1] classification of draft registrants prior to induction shall apply to servicemen who claim conscientious objection after entering military service.

c. Persons inducted into military service under 1-A-O Selective Service classification will be assigned to non-combatant service.

d. When persons inducted into military service claim to be conscientious objectors and state they were so classified by the SSS, but their records do not so

[1] 1-A-O classification permits induction into the military Service and the inductee is required to perform duties as outlined in section III and VI.D of this Directive; 1-O classification does not permit induction into military service but does permit induction into a civilian work program administered by Selective Service. In either of the classifications the registrant is required to fulfill his obligation under the MSS Act (reference (e)).

indicate, or claim they were erroneously denied SSS classification as a conscientious objector, or state they were denied a procedural right in their classification by the SSS, the Military Department concerned will immediately communicate with the National Headquarters, Selective Service System, Washington, D.C. 20435 to ascertain the facts of the matter as outlined in VI.A., below. Pending completion of that inquiry and disposition of the matter the person should be employed in duties which involve the minimum practicable conflict with his asserted beliefs, as outlined in VI.A., below.

V. CRITERIA

A. Section 6(j) of Title I of the MSS Act (reference (c)) provides an exemption from combatant training and service in the Armed Forces of the United States for any person "who, by reason of religious training and belief, is conscientiously opposed to participation in war in any form." The same subsection further provides that " 'religious training and belief' does not include essentially political, sociological, or philosophical views or a merely personal moral code."

B. However, in a recent interpretation of Section 6(j) the Supreme Court ruled that the law "exempts from military service all those whose consciences, spurred by deeply held moral, ethical, or religious beliefs, would give them no rest or peace if they allowed themselves to become a part of an instrument of war." The Court further ruled that conscientious objector classification cannot be claimed by those "whose beliefs are not deeply held and those whose objection to war does not rest at all upon moral, ethical or religious principle but instead solely upon considerations

of policy, pragmatism or expediency." The objection must be to all wars at all times and not to a particular war.

VI. PROCEDURES

A. With respect to those persons inducted into military Service who claim to be conscientious objectors and state that they were so classified by their local board, but their records do not so indicate, representatives of the Military Department concerned will take the following actions:

1. Employ the person only in duties which involve the minimum practicable conflict with his asserted beliefs pending investigation and decision on the case.

2. Obtain a statement from the person concerned and refer the case to the Departmental headquarters of the person's Service for investigation through the Selective Service System and decision.

3. When it is determined that the person should have been classified as 1–O or 1–A–O, but inadvertently was not so classified, the records will be corrected and the Commanding Officer will be directed to correct his records accordingly. The person then will be processed as indicated in subsection C. or D., below, as appropriate.

4. When it is determined that no change in classification is warranted, the person will be notified to this effect.

B. With respect to persons who have already served a portion of their obligated service who request discharge or non-combatant service for conscientious objection, the following actions will be taken;

1. The person will submit an application including the information required in Enclosure 1 and such other documentation of his case as is deemed appropriate by the Military Departments concerned.

2. Pending decision on the case and to the extent practicable the person will be employed in duties which involve the minimum conflict with his asserted beliefs. This paragraph shall not be applicable where repeat applications are filed by an individual based upon substantially the same supporting information.

3. The person will be fully advised and counselled concerning the provisions of Section 3103, Title 38, United States Code (reference (d)).[2] After counselling, the person will be required to sign and date the statement appended here to as Enclosure 2.

4. The applicant will be afforded an opportunity to appear in person (with counsel retained by him, if he desires) before an officer in the grade of O–3, or higher, who is knowledgeable in policies and procedures relating to conscientious objector matters.

a. After permitting the applicant to be heard in support of his application and making such other inquiry into the merits of the application as he considers appropriate, that officer will enter his recommendation and the reasons therefor into the file.

b. If the applicant waives the opportunity to be heard, his waiver will be obtained in writing and made a part of the file.

5. The application and supporting papers will be forwarded together with any other pertinent information known to the immediate command, to Depart-

[2] 38 U.S.C. 3103 provides, in pertinent part, that the discharge of any person on the ground that he was a conscientious objector who refused to perform military duty or refused to wear the uniform or otherwise to comply with lawful orders of competent military authority, shall bar all rights (except government insurance) of such persons under laws administered by the Veterans Administration based upon the period of service from which discharged or dismissed. The only exception is in cases in which it is established, to the satisfaction of the Administrator, that the member was insane.

mental headquarters for individual determination of action on the basis of the facts and the special circumstances of the case.

6. Prior to making disposition of the application the Military Department concerned will determine, in accordance with the terms of subparagraph IV.B.3.c., above, whether to forward the case to the Director, Selective Service System, Washington, D.C. 20435, for an advisory opinion.

7. When it is determined that an advisory opinion will not be requested from Selective Service, the Military Department concerned will make a determination on the merits of the application and will then take appropriate action as indicated in C., below.

8. In each case, the Military Department concerned will:

a. include the recommendations and reasons therefor of the officer before whom the applicant appeared in accordance with VI.B.4., above, in support of his application;

b. include a statement and report of a chaplain based upon an interview with the applicant, to include comments on the sincerity of the applicant in his belief and an opinion as to the source of the belief;

c. include a statement by a psychiatrist, or by a medical officer when a psychiatrist is not available, based upon an interview with the applicant;

d. review the application to insure that all information required by Enclosure 1 has been provided by the applicant; and

e. complete DD Form 1589, 1 February, 1967, "Summary Sheet for Review of Conscientious Objector Application," copy attached as Enclosure 4.

C. When a determination has been made on the merits of the application, the following actions will be taken:

1. Persons determined by a Military Department (whether or not such a determination was based on a recommendation by the Selective Service System) to meet the criteria for 1–O classification will normally be discharged "For the convenience of the Government."

a. Conscientious objection will be specifically cited in the discharge document as the supporting reason when that is the sole reason for discharge, to avoid possible future confusion.

b. Pending separation, the person will continue to be assigned duties providing the minimum practicable conflict with his professed beliefs and will be required to maintain the same standards of performance and behavior as other personnel assigned to his unit.

2. Persons (volunteers and inductees) with less than one hundred and eighty (180) days' service who are determined to be bona fide conscientious objectors (1–O classification) and whose request for separation is made early enough so that discharge will occur prior to completion of one hundred and eighty (180) days' active duty will be separated (for the convenience of the Government by reason of conscientious objection) early enough to permit the remaining service in the civilian work program administered by Selective Service. In such cases, the Selective Service System will be promptly notified of the date of discharge from the military Service, the fact that the individual has not completed one hundred eighty (180) days' active duty, and will be requested to induct the individuals for the alternate service provided by the MSS Act (reference (c)).

3. Persons for whom 1–A–O classification is recommended by the Selective Service System will, when the Military Department concerned has made a concurring determination, be reassigned to non-combatant training and duties as indicated in section VI.D.,

below. Like disposition will be made in those cases similarly determined by the Military Department concerned without an advisory opinion from Selective Service. Persons reassigned to non-combatant duties will be required to sign and date a statement, such as that appended as Enclosure 3.

4. Persons for whom neither 1-O or 1-A-O classification is recommended by Selective Service will, nevertheless, be considered by the Military Department concerned for discharge, non-combatant service, or such other disposition as, in the judgment of that Military Department, is warranted.

D. Persons who were classified 1-A-O by Selective Service prior to induction shall upon induction be transferred to a training center, or station, for recruit training and shall be subject to non-combatant service and training as defined in section III., above. Thereafter, upon completion of recruit training, they shall be assigned non-combatant duty. They may be transferred to the Hospital Corps, or Medical Department, for further training, provided they meet the requirements therefor. Such persons, because of assignment to medical units will not be allowed to avoid the important or hazardous duties which are the responsibility of all members of the medical organization. Any person who does not meet the requirements for this training, who fails to complete the prescribed course of instruction or who otherwise cannot be assigned to this duty, will be employed in other non-combatant duties if retained in the Service.

E. Determination by the Military Department, in accordance with the facts of the case and the guidelines furnished herein, shall be final with respect to the administrative separation of its members.

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F. When, in the judgment of the Commander concerned, any person reassigned to non-combatant duties or returned to his normal duty assignment demonstrates or has previously demonstrated his inability or unwillingness to cooperate in a manner which constitutes the basis for disciplinary action, action will be taken as in the case of any other member of the military Service who demonstrates similar behavior.

G. Commanders as specified by the Military Departments are authorized to return to an applicant, without action, any second or subsequent application when review reveals that it is substantially the same as a previous application disapproved by the Military Department.

VII. EFFECTIVE DATE AND IMPLEMENTATION

A. The provisions of this Directive will be effective thirty (30) days from the date of issuance.

B. Two (2) copies of implementing regulations, consistent with the provisions of this Directive, shall be forwarded to the Assistant Secretary of Defense (Manpower and Reserve Affairs) within ninety (90) days of its effective date.

Enclosures—4

1. Required Information
2. Statement (counselling concerning VA benefits)
3. Statement (counselling concerning designation as conscientious objector)
4. DD Form 1589

REQUIRED INFORMATION TO BE SUPPLIED BY APPLICANTS FOR DISCHARGE OR NON-COMBATANT SERVICE

Each person seeking release from active service from the Armed Forces, or assignment to non-combatant duties, as a conscientious objector, will provide the information indicated below as the minimum required for consideration of his request. This in no way bars the Military Departments from requiring such additional information as they desire. The individual may submit such other information as desired.

A. General Information Concerning Applicant

1. Full name.
2. Military serial number; and Social Security Account number.
3. Selective Service number.
4. Service address.
5. Permanent home address.
6. Name and address of each school and college attended, together with the dates of attendance, and the type of school (public, church, military, commercial, etc.).
7. A chronological list of all occupations, positions, jobs, or types of work, other than as a student in school or college, whether for monetary compensation or not. Include the type of work, name of employer, address of employer and the from/to date for each position or job held.
8. All former addresses and dates of residence at those addresses.
9. Parent's name and addresses. Indicate whether they are living or deceased.
10. The religious denomination or sect of both parents.

11. Was application made to the Selective Service System (Local Board) for classification as a conscientious objector prior to entry into the Armed Forces? To which local board? What decision was made by the Board, if known?

12. When the applicant has served less than one hundred and eighty (180) days in the military Service, a statement by him as to whether he is willing to perform work under the Selective Service civilian work program for conscientious objectors, if discharged as a consicentious objector. Also a statement of the applicant as to whether he consents to the issuance of an order for such work by his local Selective Service Board.

B. Religious Training and Belief

1. A description of the nature of the belief which is the basis of the applicant's claim.

2. An explanation as to how, when, and from whom or from what source the applicant received the training and acquired the belief which is the basis of his claim.

3. The name and present address of the individual upon whom the applicant relies most for religious guidance in matters of conviction relating to his claim.

4. A statement as to circumstances, if any, under which the applicant believes in the use of force.

5. A description of the actions and behavior in the applicant's life which in his opinion most conspicuously demonstrates the consistency and depth of his religious convictions which gave rise to his claim.

6. A statement as to whether applicant has ever given public expression, written or oral, to the views expressed in his application as the basis for his claim. If so, the applicant will specify when and where.

c. Participation in Organizations

1. Information as whether applicant has ever been a member of any military organization or establishment before entering upon his present term of service. If so, the name and address of such organization will be given together with reasons why he became a member.

2. A statement as to whether applicant is a member of a religious sect or organization. If so, the statement will show the following:

a. The name of the sect, and the name and location of its governing body or head, if known.

b. When, where, and how the applicant became a member of said sect or organization?

c. The name and location of any church, congregation or meeting which the applicant customarily attends.

d. The name, title, and present address of the pastor or leader of such church, congregation or meeting.

e. A description of the creed or official statements, if any, and if they are known to him, of said religious sect or organization in relation to participation in war.

3. A description of applicant's relationships with and activities in all organizations with which he is or has been affiliated, other than military, political, or labor organizations.

D. References

The name, full address, occupation or position and relationship to applicant, concerning persons who could supply information as to the sincerity of applicant's professed convictions regarding participation in war.

STATEMENT (Counselling Concerning Veterans Administration Benefits)

I have been counselled concerning possible non-entitlement to benefits administered by the Veterans Administration due to discharge from the military Service as a conscientious objector. I understand that a discharge as a conscientious objector, who refuses to perform satisfactory military duty or otherwise to comply with lawful orders of competent military authority, shall bar all rights, based upon the period of service from which discharged, under any laws administered by the Veterans Administration except my legal entitlement (if any) to any war risk, government (converted) or National Service Life Insurance.

STATEMENT (Counselling Concerning Designation as Conscientious Objector)

I have been counselled concerning designation of a conscientious objector. Based on my religious training and belief, I consider myself to be a conscientious objector within the meaning of the statute and regulations governing conscientious objectors and am conscientiously opposed to participation in combatant training and service. I request assignment to non-combatant duties for the remainder of my term of service. I fully understand that on expiration of my current term of service I am not eligible for voluntary enlistment, re-enlistment, or active service in the Armed Forces.

ENCL (1) to COMDTINST 1900.2

7 OCT 1968

1360.6 (Encl 4)
May 20, 68

DEPARTMENT OF DEFENSE

SUMMARY SHEET FOR REVIEW OF CONSCIENTIOUS OBJECTOR APPLICATION

1. DATE OF APPLICATION	2. PLACE OF APPLICATION	3. DATE OF SUMMON ORDER
4. NAME IN FULL (Last - First - Middle)		5. SERVICE NO.
6. DATE OF BIRTH (Month-Day-Year)	7. MARITAL STATUS ☐ MARRIED ☐ SINGLE ☐ OTHER (Specify)	8. SELECTIVE SERVICE NO.
9. APPLICANT REQUESTS: ☐ DISMISSAL (1-O) ☐ NON-COMBATANT SERVICE (1-A-O)		
10. APPLIED FOR U. S. STATUS PRIOR TO ENTRY ON ACTIVE DUTY (If "YES" explain in Remarks the reasons, if "NO" explain in Remarks why application was not made.) ☐ YES ☐ NO		
11. WILLING TO PERFORM ALTERNATE CIVILIAN SERVICE (1-O) ☐ YES ☐ NO		
12. GRADE OR YEAR COMPLETED (Last School of Grade or Years completed. Also Correspondence Grade or Business College)	13. HIGH SCHOOL AND HIGH SCHOOL: 1 2 3 4 5 6 7 8 9 10 11 12	COLLEGE: 1 2 3 4 POST GRADUATE: 1 2 3 4
14. CIVILIAN OCCUPATION	15. NAME AND ADDRESS OF LAST EMPLOYER	
16. ENTERED SERVICE AT ☐ ENLISTMENT ☐ INDUCTION ☐ OTHER DATE		17. MOS ENTERED ON SERVICE
18. DATE OF ACTIVE DUTY	19. BRANCH OF SERVICE ☐ ARMY ☐ NAVY ☐ AIR FORCE ☐ MARINE CORPS	20. COMPONENT ☐ REGULAR ☐ RESERVE
21. DECORATIONS, MEDALS, BADGES, COMMENDATIONS, CITATIONS AND CAMPAIGN RIBBONS AWARDED OR AUTHORIZED		
22. APPLICANT'S CHURCH MEMBERSHIP AND DATE OF JOINING		
23. APPLICANT'S PARENT CHURCH MEMBERSHIP		
24. STATEMENTS ATTACHED: CHAPLAIN ☐ YES ☐ NO (If "NO" explain in Remarks) PSYCHIATRIST OR MEDICAL OFFICER ☐ YES ☐ NO		
25. REMARKS		

FOR SELECTIVE SERVICE REVIEW COMMITTEE USE ONLY

26. RECOMMENDED ACTION	
27. DATE OF ACTION	28. TYPED NAME, TITLE AND SIGNATURE

DD, FORM 1589

DEPARTMENT OF DEFENSE
DIRECTIVES SYSTEM TRANSMITTAL

NUMBER	DATE	DISTRIBUTION
1300.6 - Ch 2	February 5, 1970	1300 series

ATTACHMENTS

None

INSTRUCTIONS FOR RECIPIENTS

The following pen changes to DoD Directive 1300.6, "Conscientious Objectors," dated May 10, 1968, have been authorized.

PEN CHANGES

1. Pages 3 & 4; paragraph IV. B. 3. - Delete ALL of subparagraph c., and re-identify subparagraphs d. and e. as c. and d.

2. Page 7 - Delete ALL of paragraph VI. B. 6. Re-identify paragraph 7. as 6., and delete "When it is determined that an advisory opinion will not be requested from Selective Service,". Re-identify paragraph 8. as 7.

3. Pages 8 & 9, subsection VI. C. -

   a. Paragraph 1 - Delete the parenthetical phrase appearing on lines 1, 2, and 3,
   b. Change paragraph 3. (on pages 8 and 9) to read:

   "3. Persons for whom 1-A-O classification is approved will be reassigned to non-combatant training and duties as indicated in VI. D., below. Persons reassigned to non-combatant duties will be required to sign and date a statement such as that appended as enclosure 3."

4. Page 9 - Delete ALL of paragraph VI. C. 4.

EFFECTIVE DATE AND IMPLEMENTATION

This change is effective immediately. Two (2) copies of revised implementing documents shall be forwarded to the Assistant Secretary of Defense (Manpower and Reserve Affairs) within thirty (30) days.

Maurice W. Roche
MAURICE W. ROCHE
Director, Correspondence and Directives Division
OASD(Administration)

WHEN PRESCRIBED ACTION HAS BEEN TAKEN, THIS TRANSMITTAL SHOULD BE FILED WITH THE BASIC DOCUMENT

SD FORM 106-1

APPENDIX D

*AR 635–20

ARMY REGULATION

No. 635–20

HEADQUARTERS
DEPARTMENT OF THE ARMY
Washington, D.C., 31 July 1970

PERSONNEL SEPARATIONS

CONSCIENTIOUS OBJECTION

Effective 15 August 1970

This revision is necessary to reflect the recent change from "religious beliefs" as the basis for requesting separation from the service for conscientious objection to "deeply held moral, ethical or religious beliefs." Local supplementation of this regulation is permitted but is not required. If supplements are issued, one copy of each will be furnished The Adjutant General ATTN: AGPO; other commands will furnish one copy of each to the next higher headquarters.

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*This regulation supersedes AR 635–20, January 1970.

1. Purpose. This regulation sets forth the policy, criteria, and procedures for disposition of military personnel who, by reason of deeply held moral, ethical, or religious beliefs, claim conscientious objection to participation in war in any form.

2. Scope. This regulation applies equally to commissioned officers, warrant officers, and enlisted personnel in the active military service.

3. Policy. *a.* Consideration will be given to requests for separation based on bona fide conscientious objection to participation in war, in any form, when such objection develops subsequent to entry into the military service.

b. Federal courts have held that a claim to exemption from military service under Selective Service laws must be interposed prior to notice of induction, and failure to make timely claim for exemption constitutes waiver of the right to claim. However, claims based on conscientious objection growing out of experiences prior to entering military service, but which did not become fixed until entry into the service, will be considered. Requests for discharge after entering military service will not be favorably considered when—

(1) Based on conscientious objection which existed, but which was not claimed prior to notice of induction, enlistment or appointment.

(2) Based solely on conscientious objection claimed and denied by the Selective Service System prior to induction.

(3) Based solely upon considerations of policy, pragmatism or expediency.

(4) Based on objection to a particular war.

c. All requests for discharge based on conscientious objections will be considered on an individual basis in accordance with the facts and special circumstances in a particular case.

d. Final determination on all requests or discharge based on conscientious objection (to include those listed in *b* above) will be made at Headquarters, Department of the Army.

4. Procedure. *a.* Military personnel will submit applications for discharge by reason of conscientious objection on DA Form 2496 (Disposition Form) to their immediate commanding officers. The individual requesting discharge will include in his application, or as an inclosure thereto, the information indicated below as the minimum required for consideration of his request. This constitutes a formal application. If the required information is submitted as an inclosure, it will be dated and signed by the applicant. The individual may submit such other information as desired but all information to be considered will be submitted through military channels as prescribed herein.

(1) *General information.*

(*a*) Full name.

(*b*) SSAN.

(*c*) Selective service number.

(*d*) Service address.

(*e*) Permanent home address.

(*f*) Name and address of each school and college attended, together with the dates of attendance, and the type of school (public, church, military, commercial, etc.).

(*g*) A chronological list of all occupations, positions, jobs, or types of work other than as a student in school or college, whether for monetary compensation or not. Include the type of work, name of employer, address of employer, and the from/to date for each position or job held.

(*h*) All former addresses and dates of residence at those addresses.

(*i*) Parents' names and addresses. Indicate whether they are living or deceased.

(*j*) The religious denomination or sect of both parents.

(*k*) Was application made to the Selective Service System (Local Board) for classification as a conscientious objector prior to entry into the Armed Forces? To which local board? What decision was made by the Board, if known?

(*l*) When the applicant has served less than 180 days in the military service, a statement as to willingness to perform work under the Selective Service civilian work program for conscientious objectors. Also a statement of the applicant as to whether he consents to the issuance of an order for such work by the local Selective Service Board.

(2) *Religious training or beliefs held.*

(*a*) A description of the nature of belief which is the basis of claim.

(*b*) Explain how, when, and from whom or from what source the applicant received the training and acquired the belief which is the basis of claim.

(*c*) The name and present address of the individual upon whom the applicant relies most for guidance in matters of conviction relating to claim.

(*d*) A statement as to circumstances, if any, under which the applicant believes in the use of force.

(*e*) A description of the actions and behavior in the applicant's life which, in his opinion most conspicuously demonstrates the consistency and sincerity of the convictions which gave rise to his claim.

(*f*) A statement as to whether applicant has ever given public expression, written or oral, to the views expressed in his application as the basis for claim. If so, specify when and where.

(3) *Participation in organizations.*

(*a*) Information as to whether applicant has ever been a member of any military organization or establishment before entering upon his present term of service. If so, the name and address of such organization will be given with reasons why he became a member.

(*b*) A statement as to whether applicant is a member of a religious sect or organization. If so, the statement will show the following:

1. The name of the sect, and the name and location of its governing body or head, if known.

2. When, where, and how the applicant became a member of said sect or organization.

3. The name and location of any church, congregation, or meeting which the applicant customarily attends.

4. The name, title, and present address of the pastor or leader of such church, congregation, or meeting.

5. A description of the creed or official statements, if any, and if they are known to him, of said religious sect or organization in relation to participation in war.

(*c*) A description of applicant's relationships with and activities in all organizations with which he is or has been affiliated, other than military, political, or labor organizations.

(4) *References.* The name, full address, occupation or position, and relationship to applicant, concerning persons who could supply information as to the sincerity of the applicant's professed convictions regarding participation in war.

b. Upon receipt of a request for discharge on the grounds of conscientious objection, the application should be processed in the following order:

(1) The individual's commanding officer will fully advise and counsel him concerning the provisions of section 3103, title 38, United States Code. That section provides, in pertinent part, that the discharge of a person on the ground that he was a conscientious objector who refused to perform military duty or refused to wear the uniform or otherwise to comply with lawful orders of competent military authority will bar all rights (except Government insurance) of such persons under laws administered by the Veterans Administration based upon the period of service from which discharged or dismissed. The only exception is in the cases in which it is established, to the satisfaction of the Administrator, that the member was insane. After counseling, the member will be required to sign and date the following statements:

"I have been counseled concerning possible nonentitlement to benefits administered by the Veterans Administration due to discharge from the military service as a conscientious objector. I understand that a discharge as a conscientious objector who refuses to perform satisfactory military duty or otherwise to comply with lawful orders of competent military authority shall bar all rights based upon the period of service from which discharged, under any laws administered by the Veterans Administration except my legal entitlement (if any) to any war risk, Government (converted) or National Service Life Insurance."

(2) The individual's commanding officer will arrange for a counseling interview by a chaplain and a psychiatric interview by a psychiatrist (or medical officer if a psychiatrist is not available). The chaplain will submit a report of the interview directly to the applicant's commanding officer to include comments

on the sincerity of the applicant in his belief and an opinion as to the source of the belief. Likewise, the psychiatrist will submit a report of psychiatric evaluation indicating the presence of any psychiatric disorder which would warrant treatment or disposition through medical channels to the applicant's commanding officer.

(3) The applicant will then be afforded an opportunity to appear in person (with counsel retained by him, if he desires) before an officer in the grade of 0–3, or higher, who is knowledgeable in policies and procedures relating to conscientious objector matters. The designated hearing officer will not be an officer in the applicant's chain of command. The hearing is not an adversary proceeding.

(*a*) After permitting the applicant to be heard in support of this application and making such other inquiry into the merits of the application as he considers appropriate, the hearing officer will enter his recommendation and the reasons therefor into the file. The file will be returned to the applicant's immediate unit commander.

(*b*) If the applicant waives the opportunity to be heard, his waiver will be obtained in writing, signed, dated and made a part of the file.

(4) The unit commander will then take the following actions:

(*a*) Complete DD Form 1589 (Department of Defense Summary Sheet for Review of Conscientious Objector Application).

(*b*) Include the following information on DA Form 2496 as comment 2 and then forward the application through command channels.

1. Whether approval or disapproval is recommended. The reason(s) therefore will be included.

2. Duty and primary MOS (enlisted personnel only). only).

3. Whether medical board or physical evaluation board proceedings are pending or appropriate.

4. Whether under investigation, under charges, awaiting result of trial, absent without leave, or whether any flagging action has been taken in accordance with AR 600–31. (See paragraph 8 for information required when applicant is under flagging action.)

(5) Subsequent forwarding comments on DA Form 2496 will include recommendation for approval or disapproval and any other remarks that may be pertinent. Any remarks made must be substantiated in the record. Where applicable official records in the applicants' Military Personnel Record Jacket will be cited or attached to the file as inclosure.

(6) The application for discharge, together with the inclosure(s), DD Form 1589, reports of interviews, and the officer's recommendation or waiver required by (3) above will be forwarded directly from the headquarters of the officer exercising GCM jurisdiction over the applicant to The Adjutant General, ATTN: AGPO, Department of the Army, Washington, D.C. 20314 in quadruplicate (original and three copies).

c. When a request for discharge is denied, The Adjutant General will furnish the applicant the reason why discharge as a conscientious objector is not approved.

5. Second and subsequent applications. *a.* An application for discharge as a conscientious objector which has been considered and disapproved by Headquarters, Department of the Army, will not be reconsidered. However, an applicant may submit second and subsequent formal applications to his unit commander which will be considered if they are not sub-

stantially the same as the previously disapproved application(s).

b. When a second or subsequent formal application is received, the unit commander will forward the application and any documents submitted therewith to the commander specified in paragraph 2–17*a*, AR 635–200, who will review the application to determine whether it is substantially the same as a previous application disapproved by Headquarters, Department of the Army. Commanders specified in paragraph 2–17*a*, AR 635–200 are authorized to return to an applicant, without action, any second or subsequent application for discharge under this regulation when review reveals that it is substantially the same as a previous application disapproved by Headquarters, Department of the Army. These commanders are not authorized to delegate this authority to subordinate commanders without prior approval of the Secretary of the Army.

c. If the commander specified in paragraph 2–17*a*, AR 635–200, determines that the second or subsequent application is not substantially the same as a previously disapproved application, he will return the application to the applicant's unit commander for processing in accordance with the provisions of this regulation, including a new Chaplain's report, psychiatrist's report (if over 6 months has elapsed), and a new hearing officer's report (or waiver).

6. Utilization, assignment and training of applicants for discharge as conscientious objectors. *a.* Except as provided in b below, individuals who have submitted formal applicants (para 4*a*) for discharge based on conscientious objection will be retained in their units and assigned duties providing the minimum practicable conflict with their asserted beliefs pending a final decision on their applications. In the

case of trainees, this means that they will not be required to train in the study, use, or handling of arms or weapons. It does not preclude the trainees from participating in those aspects of training that do not involve the bearing or use of arms, weapons, or munitions. Except for this restriction, conscientious objector applicants are subject to all regulations to include those on training.

b. In the case of 2nd and subsequent applications, the duty limitations of *a* above shall not apply if the applicant's immediate commander determines that the application is substantially the same as a previously disapproved application for discharge as a conscientious objector.

c. An individual on orders for reassignment who desires to apply for discharge, but does not have the required evidence (para 4*a*) to support an application is authorized one delay of 7 days. If at the end of 7 days the individual does not have evidence to support a written request for discharge, he will be required to comply with reassignment orders. An individual who has departed his unit of assignment in compliance with reassignment orders may not make application for discharge as a conscientious objector until he arrives at his new permanent duty station. The foregoing does not apply to individuals who are TDY enroute on reassignment orders for period in excess of eight weeks.

d. When a request for discharge has been denied, individual will comply with reassignment orders, be assigned to any duties, or be required to participate in any type of training. Application to the Army Board for Correction of Military Records has no effect on such reassignment, performance of any duties, or participation in any type of training.

e. Notwithstanding the retention requirements in *a* and *b* above, an individual who applies for discharge and is confined as a result of courtmartial sentence to confinement in excess of 30 days must be transferred and assigned to a United States Army correctional holding detachment under the mandatory provisions of paragraph 5, AR 190–23. His pending application for discharge will be transferred to the gaining commander for appropriate action.

7. Discharge of personnel having less than 180 days service. Personnel who have less than 180 days on active duty (excluding active duty for training) when discharged will be discharged by reason of conscientious objection to permit service in the Conscientious Objectors' Work Program. National Headquarters, Selective Service System, 1724 F Street NW., Washington, D.C. 20435, will be notified promptly of date of discharge from military service; advised that the individual has not completed 180 days active duty; and requested to induct the individual into the Selective Service Conscientious Objectors' Work Program.

8. Flagging action. Applications for discharge as conscientious objectors submitted by individuals who are under flagging action under the provisions of AR 600–31 will be forwarded to Headquarters, Department of the Army. The commander who initiated the flaging action will provide and forward with the application a detailed account of the events which prompted him to flag the individual's personnel records.

9. Authority. Persons determined to meet the criteria for 1–0 classification will normally be discharged "For the convenience of the Government."

a. Commissioned officers and warrant officers. Authority AR 635–20 and SPN 558 for separation will

be included in orders announcing discharge of individuals.

b. Enlisted personnel. Authority AR 635–20 and SPN 318 for discharge will be included in directives or orders directing individuals to report to the appropriate transfer activity or unit personnel section designated to accomplish transfer processing for discharge.

10. Form of separation certificate. *a.* An Honorable Discharge Certificate (DD Form 256A) or a General Discharge Certificate (DD Form 257A) will be furnished. Commissioned officers and warrant officers will be furnished a discharge certificate in accordance with AR 635–5 or as directed by Headquarters, Department of the Army. Enlisted personnel will be furnished a discharge certificate in accordance with AR 635–200.

b. Armed Forces of the United States Report of Transfer or Discharge (DD Form 214) will be furnished each individual discharged from service under this regulation.

c. When discharged because of conscientious objection the reason and authority for discharge (item 11*c*, DD Form 214) will be "AR 635–20, Conscientious Objection" with the appropriate separation program number.

APPENDIX

SUGGESTED CHECKLIST FOR PROCESSING 1-O APPLICATIONS

	Yes	No
1. Does the applicant object to participation in war in any form? If "No", applicant should be advised to submit a request for I-A-O conscientious objector classification under provisions of AR 600-200.		
2. Has applicant included all the information required in paragraph 4a? If information is not known, the application should so state.		
3. Has the applicant signed DA Form 2496 (DF) and where applicable, the inclosure?		
4. Has the applicant been advised letters from the individuals listed as references can be helpful and that listing references without obtaining letters serves little purpose?		
5. Has the applicant been advised he may submit any information he considers relevant to his request but all information will be submitted through military channels?		
6. Has the applicant's unit commander counseled him on the provisions of section 3163, title 38, United States Code and had him sign the exact statement contained in paragraph 4b(1)? (This statement must be dated when signed.)		
7. Has the unit commander scheduled an interview with a chaplain and medical officer?		
8. Has the chaplain commented on the sincerity of the applicant and given an opinion as to the source of his beliefs?		
9. Has the medical officer indicated that the applicant is free of psychiatric disorder which would warrant treatment or separation from the Army?		
10. Has the applicant been afforded an opportunity to appear before a designated disinterested hearing officer (O-3 or higher) not in his chain of command?		
11. If the applicant waived the opportunity for a hearing, has his waiver been obtained in writing?		
12. Has the applicant been provided reasonable time to obtain counsel, if desired, at his hearing?		
13. Has the hearing officer: a. Had an opportunity to study the application? b. Examined the applicant's military personnel records to determine if applications had been made for discharge under other Army regulations, what schools or assignment had been requested, if any, and any other data considered pertinent?		

SUGGESTED CHECKLIST FOR PROCESSING 1-0 APPLICATIONS—Continued

	Yes	No
c. Determined when the alleged conscientious objection became fixed? (Personnel with six months or more active duty will not be required to work in Selective Service Program.) d. Made a recommendation the application be approved or disapproved and given his reasons therefor.		
14. Has the unit commander completed DD Form 1589?		
15. Has the unit commander recommended approval or disapproval of the applicant's request and cited the reasoning used to make a decision?		
16. If the unit commander recommends the request for discharge be disapproved but recommends the man be classified as a noncombatant, has the applicant been advised he may apply for I-A-O classification status under provisions of AR 600-200 and refused to do so?		
17. Have the officers in the chain of command recommended approval or disapproval? If the applicant was interviewed by a commander, his endorsement should so state.		
18. Are all incloures signed and dated?		
19. Have four copies of the application been prepared for submission to Department of the Army?		

The proponent agency of this regulation is The Adjutant General's Office. Users are invited to send comments and suggested improvements on DA Form 2028 (Recommended Changes to Publications) to The Adjutant General, ATTN: AGPO, Department of the Army, Washington, DC 20314.

By Order of the Secretary of the Army:

W. C. WESTMORELAND,
General, United States Army,
Chief of Staff.

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The Adjutant General.

Distribution:
To be distributed in accordance with DA Form 12-9 requirements for AR, Personnel Separations:
Active Army: A (Qty rqr block no. 542)
ARNG: D (Qty rqr block no. 545)
USAR: D (Qty rqr block no. 545)

U.S. GOVERNMENT PRINTING OFFICE: 1970 O—400-452

U.S. GOVERNMENT PRINTING OFFICE: 1971